ETHIOPIA-ERITREA, FROM WAR TO PEACE:
THE ROLE OF THE INTERNATIONAL COMMUNITY
IN THE CONFLICT.

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"If you want to make peace with your enemy, you have to work with your enemy. Then he becomes your partner”

Nelson Mandela
Abstract

In 1998 a war started in the horn of Africa. Eritrea and Ethiopia, two countries with a shared history and close relationship, initiated a military conflict over the control of the city of Badme, which is an important strategic point for commerce and economic development. The sovereignty of this place had not been clearly defined by the colonial treaties that established the borders of the different regions and the governments of both countries adopted opposed delimitations. Furthermore, nor Eritrea nor Ethiopia submitted their differences to the International Court of Justice, contrary to other African countries that managed to peacefully solve their border differences.

Once the War started, the International Community rapidly activated different mechanisms, both in the Security Council and in the Organisation of African Unity, to facilitate the end of hostilities. Moreover, some States mediated between both parts.

Therefore, International Public Law and Humanitarian Law played a remarkable role in this conflict, as resolutions were passed in the Security Council; a United Nations’ military mission was deployed in the border; the Organisation of African Unity established a “Framework” agreement; and, after all, both countries decided to submit their differences to international arbitration processes.
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Introduction

Among the many conflicts that have taken place recently, the Ethiopia-Eritrea War stands out from all the others due to its complexity, duration and the difficulties that the actors faced once the military conflict was finished, as it took nearly two decades to reach a Peace Agreement that apparently has finished with the hostilities between both countries once for all.

Contrary to other crisis in Africa, the International Community played an active role during the whole War as the Security Council of the United Nations (UN) adopted several resolutions related to this conflict and tried to reduce the scope of the conflict by declaring an embargo on military equipment; a UN peace mission was sent to the region; some States, like Italy, the United States and Rwanda, started initiatives to approach the position of both countries; the Organization for African Union was key for the ending of the combats; etc.

Also, this conflict is particular because both countries agreed to restore to international arbitration and agreed to fully apply the arbitral decision, instead of winner country imposing its conditions.

In this Bachelor’s Degree Final Project, by explaining the role of the International Community in the Ethiopia-Eritrea War, a cross-sectional study of Public International Law will be done, considering Humanitarian Law, International Custom, the opinion of experts and the regulation and functions of some International Organizations.

The first chapter is dedicated to the study of the historical context and the causes that triggered the Conflict. The second part focuses on the War itself, specifically mentioning the International initiatives to stop the combats and the measures adopted by the Security Council related to the Ethiopia-Eritrea issue. The final part revolves around the arbitration process, the post-war relations and the current situation in the region.
**Historic Background**

**Italian colonization**

Eritrea and Ethiopia share an extensive and rich history. Although we could refer to many centuries ago, we will start this narrative in the last years of the XIX century.

During the scramble for Africa, the continent was divided and colonised by Western powers. Eritrea was conquered by Italy in the 1880s and became a colony for more than half a century. After several years of undeclared war between Italians and Ethiopians, with some border skirmishes and irregular campaigns, finally in 1895 Italy tried to invade Ethiopia, known during those years as Abyssinia. This conflict was called “First Italo-Ethiopian War” Unexpectedly, the Italian Army was defeated in the battle of Adwa in 1896 and Abyssinia managed to maintain its independence for some decades.

When Benito Mussolini came to power in 1922, he announced his intention of recreating the Roman Empire. He started a series of initiatives in the colonies, like the creation of the Eritrean Railway, and launched a new military offensive against Abyssinia in 1935, starting the Second Italo-Ethiopian War. This time Italia won and successfully invaded the African country, which became a colony until the end of the Second World War.

It is worth mentioning that during this Second War both parts violated International Law. The Ethiopian army mutilated prisoners and killed Italian civilians, as in the Gondrand massacre. Fascist forces used mustard gas,\(^1\) completely prohibited by the Geneva Conventions; Ethiopian Prisoners of War (POW) were not granted their rights; reprisals against civilians took place in a large scale, like during the events known as Addis Ababa Massacre;\(^2\) and the Red Cross suffered some deliberate attacks by the Italian air force.\(^3\)

Not unexpectedly, considering that Eritrea was an Italian colony for more than 40 years, while Ethiopia was only ruled by the Italians for less than 10 years, the Italian colonization affected Eritrea much more than Ethiopia.\(^4\) For example, the city of Asmara, capital of

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Eritrea, received an important Italian community and many factories and infrastructures were built.

**Ethiopian Federation**
In 1941, during the Second World War, the British Army conquered the Italian possessions in East Africa. This invasion put an end to the presence of Italy in the region. At that moment, for a short period of time, the history of both nations diverged. While Emperor Haile Selassie from Abyssinia was able to return to Ethiopia, Eritrea became a colony under British administration for the remaining of the War, although free democratic elections took place soon afterwards.

When the Second World War ended, the allied forces were faced with the problem of deciding the status of Eritrea. The United Nations decided to send a Commissioner to the region and propose a viable solution for the coastal country.

In 1952 the General Assembly of the United Nations, in Resolution 390, adopted the proposal presented in the Report of the UN’s Commissioner in Eritrea that consisted in federating Ethiopia and Eritrea. Emperor Haile Selassie was forced to proclaim a constitution that granted Rights both to Ethiopians and Eritreans and have respect for the cultural and institutional diversity in Eritrea.

The union was deeply unpopular in Eritrea and opposition soon emerged. The main reason given was that the majority of the population of the coastal country are Muslims, while Ethiopians are mainly Orthodox Christians. Also, reporters noted that Eritreans considered that Italian colonization had distanced them from their neighbours and that they had already held democratic elections under British control, so they could govern themselves.

On 1962 Ethiopia announced the end of the Federation and declared that Eritrea was just a region of the Empire. Also, the Emperor declared that all borders negotiated with the Italian Colonial administration were void and were no longer ruling the limits of Eritrea.⁵

**War for Eritrean Independence**
The Eritrean War of Independence started in 1961, months before the federation was dissolved, and lasted for nearly 30 years. This conflict must not be understood as just a War

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between all Ethiopia against Eritrea, but as a much broader conflict that, apart from the fight for secession, it also was made up of three civil Wars and some ethnic rivalries.

The 70s and 80s were a complete chaos in the region. First, from 1970 to 1974 the Eritrean Liberation Front (ELF), which was the Muslim independentist force, and the Eritrean People’s Liberation Front (EPLF), which had a non-confessional view of the future Eritrea, fought a bitter civil War to control the independentist movement. This conflict ended when both parties decided to join their forces against Ethiopia, rather than fighting each other.

While in Eritrea a civil War was taking place, in 1974 there was a coup d’état in Ethiopia that overthrew Emperor Haile Selassie and abolished the monarchy. The new regime was a Marxist military junta known as the Derg, directed by Mengistu Haile Mariam. This communist government never gain full control of the country, as there was armed opposition in Eritrea but also inside Ethiopia, and completely depended on USSR support. The Regime of Mengistu imposed a centralized undemocratic State and committed serious atrocities, mainly against Eritrean Muslims.

At the beginning of 1980, the ELF and the EPLF started a second Eritrean civil War. This one ended with the complete defeat of the ELF and the leader of EPLF, and current Head of State of Eritrea, Isaias Afewerki, became the leader of the Eritrean independentist forces.

While Eritrean soldiers clashed against each other, Ethiopian opposition movements against the Communist regime united in a coalition against known as Ethiopian People’s Liberation Front (EPRLF) led by the Tigray People’s Liberation Front, which was formed by the traditionally marginalized Tigray ethnic group.

Both the Eritrean EPLF and the Ethiopian EPRLF worked together against the Derg for the remaining of the War. With the fall of the USSR, the Communist regime in Ethiopia could not cope with all the fronts and Mengistu Haile Mariam was overthrown in 1991.

When the EPLF conquered all Eritrean territory and the EPRLF entered in Addis Ababa it was assumed that the union of both countries was about to end. In April 1993, a Referendum

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was held in Eritrea, though at that moment it was a de facto independent State. The electoral process, which was fair and democratic according to the United Nations, ended with 99.83% of the voters opting for Independence. This was the first case of successful separatism in Africa after the Colonial Era.

**After the Independence: From cooperation to discord**

During the first years after the partition the relations between both countries were cordial, the years fighting against the Derg had established emotional bonds between the two communities. Eritrea’s President Issaias Afwerki, leader of EPLF, and Ethiopia’s Prime Minister Meles Zenawi, from the EPRLF, worked together in many initiatives towards the reconstruction of their countries and they adopted common positions in international matters, like the relation with the Islamist Regime in Sudan.

Eritrea and Ethiopia signed in 1993 the Asmara Pact, an instrument that consisted of 25 agreements on their future relations, although it was much more a declaration of intentions rather than a detailed protocol, which shows a predisposition to cooperate.

Unfortunately, problems soon started to arise. In the first place, both States had important differences as their religion, ethnic and culture diverged. These differences were exploited by President Afwerki to create a national identity in Eritrea based on a common history and culture between Eritreans and their fight against invaders, like Italy and Ethiopia. Mr Afwerki established a regime in the coastal country and sought to unite its people under a common cause: the independence of Eritrea from any foreign power.

Secondly, Ethiopia is a land-locked State as it does not have direct access to the oceans. This means that they need to reach agreements with other countries in order to access the international market. The most logical solution was to negotiate with Eritrea, as it was the...

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region that had been used for many decades to buy and sell goods in Ethiopia, both countries soon implemented taxes on each other.

Both countries knew that having a common currency was a key factor for economic development so, when Eritrea became independent; they decided to retain the Ethiopian Birr. The problem was that they did not agree on monetary and fiscal policies because their economic model differed. While Eritrea wanted to become the “Singapore” of Africa thanks to free market, Ethiopia preferred to incentive its agricultural potential adopting protectionist measures to shield its industry.\(^\text{17}\)

After failing to adopt agreements, Eritrea decided in 1997 to issue its own currency, named Nakfa. Ethiopia did not accept this currency and adopted measures to prevent the exchange of Birr for Nakfa and the other way round, thus making cross-border trade extremely difficult.\(^\text{13}\)

The difficulty to establish economic relations was a major blow for both countries. Ethiopia had to look for other partners to access the ocean accepting worse terms to do so, while Eritrea’s economy was nearly destroyed because Ethiopia was its main customer.

Another important source of problems was the border. Considering the Cairo Declaration of 1964, which declared that colonial borders would be respected in Africa, both countries had accepted that the delimitation implemented by Italian colonial administration would be enforced. The problem was that there were some areas of the region not properly delimitated by the Treaties between Italy and Abyssinia.

The major flashpoint was the sovereignty of the city of Badme. Although it had remained part of Ethiopia, different interpretations of the Colonial treaties awarded the city to Eritrea. Both parts agreed to establish a bilateral commission over the issue, but it never solved the controversy.

Eritreans officials knew that the economic situation of Eritrea was becoming really difficult and considered that assuming the control of Badme would bring about economic growth and that the country would be in position of negotiating new agreements with Ethiopia. Also, pressuring its neighbour to solve this problem would be an easy way of reducing the growing

discontent in Eritrea\textsuperscript{18} and would reunite all Eritreans under the leadership of President Afwerki.\textsuperscript{19}

Both countries reinforced their armies and tension between them soon escalated, as Ethiopia expelled Eritrean populations from contested areas and Eritrea was preparing a major military movement.


The conflict

Outbreak
After some years of growing tensions, on the 6th of May 1998 a powerful Eritrean army commanded by the Eritrean General Gerzgiher Tesfamariam20 invaded the Ethiopian-held province of Badme in response to the death of some Eritrean citizens some days before.21

As mentioned earlier, the main, but not the only, reason for the War was the control of the city of Badme, as its sovereignty had not been clarified in any of the border treaties of 1900, 1902 and 1908, negotiated by Italian colonial officials and Ethiopia. Despite the fact that both countries knowing that this uncertainty was becoming a serious threat to peace, had not established the limits of each country when the War started and their positions were radically opposed.

This dispute over borders was not rare in Africa. For example, a similar situation took place between Burkina Faso, then known as Upper Volta, and Mali. In this case, both African countries decided to submit their differences to the International Court of Justice (ICJ) in 1983. The ICJ in 1986 delimitated the borders of both countries, considering the French colonial delimitations. Therefore, the leaders of Ethiopia and Eritrea knew that the ICJ could peacefully solve the issue, but they did not agree to submit their dispute to it, thus preventing the peaceful settlement of the dispute in the Court.22

Although at first Eritrean authorities were convinced that there was not going to be a hostile military response, the Ethiopian government reacted on the 13th of May demanding that Eritrean troops return to their positions prior the invasion, as it was an attack to Ethiopia’s integrity. Ethiopia’s government was no longing prepared to tolerate more provocations by its former ally in the Ethiopian civil War.

Following article 51 of the UN Charter, that recognises the Right to self-defence to a country if attacked,23 24 Ethiopian authorities ordered the full mobilization of troops and they

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informed the Security Council of the United Nations that both countries were, from that moment, in the State of War due to the violation of Ethiopian territorial integrity by its neighbour.25

The Eritrean’s Foreign office answered to the demands of its counterpart on the 15th of May, defending that their Army had not violated Ethiopia’s borders because, according to their interpretation of the maps that delimited both countries, the occupied territory was rightfully part of the coastal State.

As the interpretations of the borders was radically opposite between them, the conflict was inevitable. Furthermore, nor Eritrea, nor Ethiopia were going to renounce their aspirations of controlling the region and were prepared to fight an open War to secure the control over Badme.

**Determining the conflict**

Once a War takes place, one of the questions that has to be answered is the type of conflict we are studying. The most intuitive and easy answer would be affirming that, as two States were fighting, this conflict was of interstate nature, which is correct.

But, due to the particularities of the region, as well as the shared history and culture, there are some Scholars that defend that it was a civil War between one community divided within two States.26

To reinforce this idea, different academics from the region point out that the conflict was between the Eritrean government and Tigrayan people, which was the ethnical group that manage to control the Ethiopian administration after the fall of Mengistu Haile Mariam, and not all the Ethiopian people, as the African country is formed by several ethnic groups.8

**First international response: Rwanda and the U.S.A**

The first days of the military strife were characterized for the existing tension and sporadic battles, rather than an open conflict between both countries. This situation can be understood because Eritrea wanted to show its military power, Ethiopia was not prepared for a

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counteroffensive, and because both contenders wanted to leave retain the possibility of solving their differences in a diplomatic way.

Nevertheless, there were violent episodes against civilians, specially towards Ethiopian minorities living in Eritrea and vice versa. It should be mentioned that the situation of both collectives, those Ethiopians that resided in Eritrean territory and Eritreans that lived in Ethiopia, was very delicate well before the outbreak of the War. The status of these minorities was a problem addressed by both countries from 1992, when they established the “Laws of Return” that facilitated the process to obtain nationality and residence permits for people from these minorities if they moved to the country of their ethnicity. These actions tried to facilitate the protection and movement of minorities but represented the expulsion of people due to ethnic differences.

During these days of military interim, the International Community started different initiatives to deescalate the conflict. The first major movement was done by the Vice-president of Rwanda, Mr Paul Kagame; Ms Susan Rice, from the U.S. Department of State; and Ms Gayle Smith, representing the U.S. Government. From the 17th to the 29th of May, these delegates started peace talks between both contenders and prepared a joint proposal for peace.

The actions done by these diplomats are qualified in International Public Law as mediation because third countries tried to bring closer the positions of Ethiopia and Eritrea through diplomacy. Considering that a proposal was made, the initiative of Rwanda and the U.S cannot be considered as good offices.

The key point of this proposal was the delimitation of the proper borders in the region following the interpretation of the colonial limits and the positions held by both countries before the initial attack. Also, a group of observers from Rwanda and the U.S. was to be

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deployed, in order to assure that, once accepted the proposal, no further combats were to take place.

Unfortunately, both countries rejected the agreement. Ethiopia was only open to negotiate if the Eritrean army withdrew from the region, while Eritrea was not going to renounce the conquered territory. Additionally, retiring the troops would mean that they were implicitly recognising that the attack was an illegitimate aggression and that those territories invaded were not part of the coastal country.26

**Organization of African Unity’s “Framework Agreement”**

After the failure of the Rwanda/U.S. early initiative and the renewal of the combats between both forces, the OAU made a proposal for peace during a meeting on the 10th of June 1998. It was supported by the Heads of States and Government present in the gathering.

This proposal, known as “Framework Agreement”, stated that Eritrean forces had to withdraw to their initial positions in order to start peace conversations. The main subject of the peace process should be the delimitation of clear and exact borders. Both countries would have to refuse the use of force and accept that only by peaceful means could their dispute be resolved.

This proposal was backed by the European Union, the United States and the United Nations. Thus, it seems evident that the International Community considered that the main problem in this conflict was the lack of agreement related to the borders between both countries. Also, the end of the combats and the withdrawal of Eritrean soldiers was considered to be necessary to start a peace process that should end the War.

**The Security Council of the United Nations**

The United Nations currently is the most important International Organization. It is an intergovernmental entity regulated in the Charter of the United Nations. It is formed by different bodies, being the General Assembly, where all member States are represented, and the Security Council the pillars of this organization.32

This second body, which developed an active role in the Ethiopia-Eritrea conflict, is regulated in chapter V of the Charter and it is formed by fifteen States. Five of them are permanent and have veto right, United States, United Kingdom, China, Russia and France;

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and the other ten are elected every two years. The decisions are adopted by simple majority but they can be vetoed by the five permanent powers. According to article 24 of the Charter, the primary responsibility of this body is the maintenance of international peace and security.\textsuperscript{33}

Chapter VII of the Charter regulates the actions this body can adopt to maintain peace and security. On the first place, the Security Council can qualify a situation as a “threat to international peace and security”, thus allowing the UN to activate further measures. On the second place, art. 40 permits to adopt provisional measures. Also, according to article 41, this organ can publish recommendations or decisions with the objective of facilitating the maintenance of peace and the ending of conflicts. In case those recommendations are not followed, the Charter regulates the possibility of implementing international sanctions that can consist in preventing economic relations with the State that is violating International Law. Finally, in articles 43-48 it is established that the Security Council can adopt coercive measures that imply the use of force.\textsuperscript{34}

It must be mentioned that, apart from the measures regulated in the Charter, the Security Council can establish an International Peace Mission, which consists in the deployment of military personnel when their presence may be crucial to maintain peace. The Mission is ruled by the principles of consent by States, impartiality and the use of force must always be for defensive purposes.

Therefore, it can be seen that this body of the UN is very powerful, as it can adopt many actions with the objective of maintaining peace and security.

\textit{Resolution 1177 (1998)}

On the 26\textsuperscript{th} June 1998, the Security Council of the United Nations approved resolution number 1177, the first one related to the War between Eritrea and Ethiopia.

Firstly, this document supported the actions and measures related to the conflict adopted by the OAU up to that moment. This explicit support was maintained throughout the conflict and it is very important, as both organizations would cooperate, but stating that the African organization was the entity that would work closely with both contenders. The UN’s body also urged Ethiopian and Eritrean governments to cooperate with the OAU.

\textsuperscript{34} CASANOVAS, Oriol & RODRIGO, Ángel J. \textit{Op. cit.} Pg. 440.
Secondly, the resolution strongly condemned the violence used by both parts in the combats, as it is against the Principles of International Law, and unsuccessfully prompted them to stop.

Member countries also praised the informal agreement reached by members of the military of both countries declaring that there were not going to be aerial attacks. This aerial cease-fire was reached on the 15th June 1998 thanks to the active role of the Italian Diplomacy, backed by the Clinton Administration.17

Linked with the above paragraph, the Security Council called upon both countries to avoid any steps that could aggravate the ongoing conflict and start initiatives that could help in recuperating mutual confidence. Also, it urged both sides to respect the rights and guarantee the security of each other’s nationals to avoid any further attack against these minorities.

Finally, the Security Council requested the Secretary General of the UN to give technical support to both contenders to help them in the delimitation of the common border. In order to establish this support, it created a trust fund to financially support the team.

This Resolution is important because it established two key points: i) it stated that although the Security Council would be vigilant and supportive, the OAU would be the organization that would lead the peace process rather than any other entity from outside the African continent, and ii) it identified that the main flashpoint of the conflict was the opposite interpretations of the common border and directed most of International efforts towards the delimitation of the border.

However, rather than adopting sanctions or provisional measures, the Security Council decided to approach this conflict in a collaborative way, praising the agreements and condemning the use of force.

Resolution 1226 (1999)

An interesting characteristic of this conflict is that it had periods of intense combats combined with months without activity. After the initial combats, there was a pause, moment when international peace efforts were done. This period of inactivity lasted until the end of February 1999 and was used by both parts to reinforce their units and fortify their positions.

Nearly a month before the attacks were resumed, the Security Council proclaimed another resolution related to this War. It was adopted on the 29th January 1999, as member countries imagined that an important offensive was to take place in February, as it happened.
Despite knowing that there was a high chance of an Ethiopian counter offensive taking place in some days, no measure to prevent the attack was adopted. Instead, Resolution number 1226 reaffirmed its support to the OAU and thanked Ethiopia for having accepted the “Framework Agreement”.

In addition, the Security Council pointed out that, although Eritrea had not accepted the OUA’s proposal, the coastal country was asking for different clarifications, position that the International Community considered that was collaborative and praised both parts for taking some steps toward the Peace.

Nevertheless, Eritrea was asking for these clarifications to postpone the agreement and Ethiopia was set to launch its counteroffensive.

Therefore, this second resolution was a confirmation of the 1177 and it did not prevent the escalation of the combats in the following days.

**Resolution 1227 (1999)**

On the 6th February 1999, Ethiopia accused Eritrea of having violated the agreement that forbade aerial attacks, as it claimed that Eritrean airplanes had bombarded the city of Adigrat. Although some days later Ethiopian authorities recognised that this accusation was false, the conflict immediately intensified. Considering that aerial support was crucial for the Ethiopian offensive that was planned to take place at the end of that month, there is high chance that the accusation of the attack was a mere excuse to violate the agreement and use their planes.

Knowing that both parts were ready to resume high-scale conflicts, the Security Council met again to adopt a new resolution, number 1227. This document refers mostly to the alleged aerial attack and reminds both parts that they had agreed to prevent the use of aerial weapons, as its use could hurt civilians. The Security Council used this opportunity to pressure both countries to accept the OUA’s Framework Agreement that should end the conflict.

Also, this resolution “*Strongly urges all States to end immediately all sales of arms and munitions to Ethiopia and Eritrea*;”. No embargo was declared but, as both parts were rearming themselves with foreign weapons and the use of armament is needed to fight, the

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Security Council decided to ask all members of the International Community to restrain from selling weapons to both countries.

This is a very important point in the conflict, as the United Nations, for the first time in this confrontation, identified that an effective way to stop the War, or at least hinder it, was preventing the supply of weapons to contenders.

In this resolution, although it does not declare an embargo or restrictions, by pointing out that the import of foreign weapons is necessary for the conflict and asking all States to restrain from doing so, the Security Council takes the first step towards adopting effective measures to stop the War.

**Ethiopia bites back**

As it has been mentioned before, in February 1999, Ethiopia effectively launched a series of well-planned attacks against the positions of the Eritrean Army. This offensive overcame the Eritrean strongholds and it ended with the recuperation of Badme on the 27th of February 1999.

Therefore, after the fall of Badme, both armies were in the positions prior the attack of the Eritreans. Immediately after losing the region and with it, its capacity to impose conditions on Ethiopia, the Eritrean government accepted the “Framework Agreement” of the OAU. But, as Ethiopia had recovered the territory and its forces outnumbered those of its neighbour, the Ethiopian government started to ask for clarifications and explanations of the proposal with the objective of not accepting the document in the conditions proposed and negotiating better terms.

While Ethiopia’s military power kept growing, Eritrea at this point were not in a strong position to negotiate, as its army had been nearly destroyed and all its territorial gains had been lost. Despite this unbalance in power, the reduced Eritrean army was able to inflict damages on its enemy. For example, on the 16th of May 1999, an Ethiopian attack against the city of Velessa, near the Eritrean capital Asmara, was defeated by the Eritreans.

Although it could be considered that the War at this point was a major victory for Ethiopia, in reality, despite winning in the military field, its economy was seriously affected. Even though

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36 CNN STAFF (1999). "Eritrea accepts peace deal after Ethiopian incursion". CNN.
the main reason for this unfavourable economic situation was related to the War, other factors, such as the previous dictatorship, the civil War, and the drought that the country was suffering were also responsible.

On the one hand, Ethiopia had to dedicate large sums of money to buying weapons on the foreign market. On the other hand, as Eritrea remained closed to Ethiopians, the goods produced in the African country had to be shipped from Djibouti. This small country took advantage from the situation and demanded higher taxes than Ethiopia had been paying Eritrea for many years.

Once again, after this first major Ethiopian offensive, the conflict deescalated, and minor attacks occurred. The International Community started different initiatives to work towards peace, although all proved unsuccessful.

**Second Ethiopian offensive**

In May 2000, two years after the outbreak of the War, another Ethiopian offensive took place. With this massive attack aimed at conquering key Eritrean cities, they wanted to finish, once and for all, the War.


The Security Council immediately addressed the escalation of the War and adopted on the 12th of May a new resolution, number 1297. This document condemned the violence and urged both countries to stop the conflict. Therefore, little was done by the Security Council in resolution 1297. Despite not adopting immediate measures, Member States decided to hold a new meeting in the following days.

On the 16th and 17th of May important Eritrean cities were captured and different aerial attacks took place.


On the 17th of May 2000, following previous resolution 1297 (2000), the Security Council gathered for the second time in five days and adopted resolution 1298. This document is really important for the conflict as it declared an embargo on military equipment, as well as requesting both parts to refrain from using force and to readdress their differences through diplomatic channels.
This embargo prohibited for, at least twelve months, the supply of weapons, ammunition, military vehicles and military equipment to both countries. It also forbade any of the parts involved to assist in the utilization or fabrication of any material that could be used in the War.

A Committee was established to make sure all States complied with the decision and to study what humanitarian material could be allowed to enter in the region. The Security Council ordered that all States had to inform the Committee within the following 30 days of the measures adopted to prevent any supply that could be used in the Eritrean-Ethiopian War.

The embargo adopted on the 17th of May 2000 would probably have minimised the damages of the War had it been adopted before. At this point of the conflict it is difficult to establish what was the real impact of the measures had been as both armies had enough weapons stockpiled to continue fighting for some months more.

**End of the War**

By the end of May, the Ethiopian army had occupied nearly a quarter of Eritrea, as well as fulfilling all its military objectives. Eritrea’s army could not respond to the attacks and the Eritrean Regime faced serious menaces both internationally and nationally, as the discontent grew among the Eritreans.

On the 25th May, Ethiopia declared that the War was over and its victory in it.37

**Agreement on the cessation of hostilities**

Although different informal contacts between the Ethiopian and Eritrean government had taken place before, on the 29th May 2000 both countries started formal peace negotiations in Algiers. The process was guided by the OAU which, despite being regarded by many scholars as mostly inoperant in most of the conflicts that had taken place in Africa, was a really important actor in these negotiations.38

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37 BBC STAFF (2000). "Ethiopia says ‘War is over”. BBC. From the website: 

38 Quins passos està donant la Unió Africana per tal resoldre els conflictes fronterers i l’encaix d’algunes comunitats als Estats? “Bàsicament l’OUA és un gran gegant molt inoperant.” Prof. Gustau Nerín. Universitat de Barcelona
On the 18th June 2000 agreement was achieved and both parties signed the Agreement on Cessation of Hostilities. This document put an immediate end to the War between both countries, although there were moments of tension during the following years. It was based on the OAU’s “Framework Agreement” and regulated the different issues that should be addressed to assure a peaceful relation between Ethiopia and Eritrea.

In the first place, it is proclaimed that their dispute will only be solved through legal and peaceful means, thus refusing the use of force to impose their will. Therefore, they announced the immediate cessation of air and land attacks, the creation of 25 kms of buffer zone between both armies and, to avoid any further confrontations, urged the Security Council to establish a Peacekeeping Mission in the region that should control the fulfilment of the agreement and the respect of the buffer zone. This petition was granted in Resolution 1312 (2000) that will be studied later.

Secondly, Ethiopia committed to retire its troops from Eritrean territory, considering the situation prior the attack. Importantly, as Badme was under Ethiopian administration on the 6th May 1998, Ethiopian soldiers could stay in the city.

Nevertheless, it is clearly stated in point 10 of the document that the redeployment of these soldiers to areas controlled by the Ethiopian administration before the War does not mean that Eritrea is recognising that territory as rightfully Ethiopian. They were just agreeing that soldiers of both nations must return to their countries and, as the border had not been agreed yet, the sovereignty of contested areas will be provisionally ruled considering the situation before the start of the military conflict.

Both countries implemented this agreement and, fortunately, no more combats took place in the immediate months.


Resolution 1312 was unanimously adopted on the 31st July 2000, some weeks after Ethiopia and Eritrea signed the Agreement on the cessation of hostilities. Firstly, it praised the OAU having facilitated an agreement between both enemies. Nevertheless, the main objective of this document was to establish the United Nations Mission in Ethiopia and Eritrea (UNMEE), a peace-making mission that should check if the Agreement was implemented and prevent further combats between both countries.
Soldiers deployed had to monitor the cessation of hostilities, maintain contact with both parties, facilitate the removal of mines from the War and control that the 25 kms buffer zone was respected. To do so, the Security Council granted support and some powers to the mission and lifted the embargo only for UN troops, while maintaining the prohibition of selling military equipment to Eritrea and Ethiopia.

Although resolution 1312 only ordered the deployment of troops until January 31\textsuperscript{st} 2001, further Security Council resolutions (1320, 1344, 1369, 1398, 1430, 1434, 1466, 1507, 1531, 1560, 1661, 1678, 1681, 1710, 1741, 1767, 1798) granted more powers to the permanent international contingent and renewed the mission until July 2008, when in resolution 1827 the United Nations decided to end the mission due to the hostile actions against UN troops carried out by both parties, mainly consisting in preventing the supply of fuel to the UNMEE.

The UNMEE was formed by 1,500 to 4,500 members and it played a crucial role in maintaining peace in the region during the following 8 years. It is generally assumed that the UNMEE was an effective actor in preventing further combats between Eritrea and Ethiopia during the years following the cessation of hostilities. Unfortunately, the UNMEE recorded 20 fatalities of its personnel, as mines and random attacks constituted serious threats to the integrity of peace makers.\textsuperscript{39}

In 2008 Eritrea prohibited the supply of fuel to the mission and Ethiopia was no longer supporting the mission. The Security Council had no other option but to end this peace mission and fear of new combats arose after the departure of UN personnel.

**Algiers Agreement\textsuperscript{26}**

The terms established on the Agreement on Cessation of Hostilities and on the OUA’s “Framework Agreement” were reaffirmed on December 12\textsuperscript{th}, 2000, when Ethiopia and Eritrea formally signed the Algiers Agreement. In this document both countries decided to create three bodies with the objective of setting a lasting peace.

As mentioned in Article 3 of the Algiers Agreement, the first body had to be created by the OAU and did not receive any official name. This un-named commission was in charge of investigating and determining the origins of the conflict, apart of those directly related to the lack of delimitation of the border, to avoid repeating them in the future.

Following article 4, the second body, which would be housed by the Permanent Court of Arbitration in The Hague, was the Boundary Commission, better known as the Eritrea-Ethiopian Boundary Commission or EEBC. This commission had to settle once for all the dispute over the border. It was formed by 5 members; each side would appoint two delegees and the other member would be elected by them. If no agreement were reached, the UN Secretary General Mr Kofi Annan would appoint a neutral member. They selected the Permanent Court of Arbitration regulations to rule the proceedings.\(^5\)

The third commission had to establish the damages caused by each government during the War and decide whether a country had to compensate the other or not.

While the EEBC and the Claims Commission worked and started investigating, the un-named entity was not created and has never developed its functions.

### Casualties of the Conflict

This War had serious negative effects in the region and many people suffered direct consequences from the conflict. In this chapter those consequences will be studied.

Most after War reports agree that the figure of joined military casualties of the conflict is around 70,000 deaths, although there are some scholars that either minimize the numbers or consider that there were at least a hundred thousand deaths.\(^40\)

In fact, at least 3,700 soldiers were held as prisoners of War when combats ended. It was proven that there were some violations of the First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field and the Third Geneva Convention Relative to the Treatment of Prisoners of War. Many of the prisoners suffered continuous physical and mental abuse and there were isolated incidents were prisoners of War were killed.\(^41\)

Regarding sexual violence, although both States officially agreed that it is completely unacceptable and punishable, there is convincing evidence that there were sporadic episodes

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\(^{40}\) BBC STAFF (2001). “Eritrea reveals human cost of War”. BBC. From the website: [http://news.bbc.co.uk/2/hi/africa/1398446.stm#:~:text=BBC%20News%20%7C%20AFRICA%20%7C%20Eritrea%20reveals%20human%20cost%20of%20war&text=President%20Isaias%20Afwerki%20has%20announced%20war%20has%20been%20made%20public](http://news.bbc.co.uk/2/hi/africa/1398446.stm#:~:text=BBC%20News%20%7C%20AFRICA%20%7C%20Eritrea%20reveals%20human%20cost%20of%20war&text=President%20Isaias%20Afwerki%20has%20announced%20war%20has%20been%20made%20public) (Last visit on the 1st June 2020).

were women were raped by soldiers of both armies. The scope of these violations cannot be established because victims are stigmatised by their communities and they do not have any incentive in denouncing those attacks on their sexual integrity.

Fortunately, the use of anti-personnel landmines was mostly restricted to military objectives and mines were installed following defensive reasons which was not the case in most African conflicts.

Although during the War some treaties prohibiting the use of these weapons had been signed, like the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, it cannot be affirmed that both countries had violated International Humanitarian Law, as these treaties could not be considered customary law yet and the use of mines can be up to some point accepted if they are restricted to reinforce military defences rather than using them to target civilians.41

Nevertheless, undetected abandoned mines are still a threat in the region and, despite the fact that most of them have been detected and removed, there are some accidents related with these weapons.

Another common problem between both countries is that they were two of the poorest and most food insecure countries in the world before the conflict and the War worsened the crisis. Between 1991 and 1998 Eritrea and Ethiopia could not even produce half of the food that its population needed, relying in international donors to feed its inhabitants.

The outbreak of the War complicated even more this dramatic situation. The displacement of people left vast agricultural areas unattended and many international donors retired their support, as they were not sure that the food sent was going to arrive to civilians. By the time the War ended, at least 16 million people faced severe starvation.42

It is worth mentioning too that the War forced many thousands to flee from the region43 and, despite the efforts of International Community to protect minorities, they were deported and some of them mistreated. It is claimed that at least 70,000 Ethiopians were expelled from Eritrea during the War, although the Eritrean governments still denies this accusation; and

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that approximately 75,000 Eritreans living in Ethiopia were stripped of their possessions and expelled to the neighbouring country, according to Human Rights Watch.29

Although many of those Eritrean refugees could restart a new life in their hosting country after the War, many others had to flee the coastal country amid the dictatorship in Eritrea and the religious tensions in the region between Muslim and Christians (and between Orthodox, Catholics and Protestants).

Despite not having specific figures of this diaspora, around 76,000 Eritreans were living in refugee camps situated in Ethiopia in 2011. Also, Eritreans are the biggest national group of the region seeking protection in Israel, representing more than half of the 60,000 refugees from the region that live in the Hebrew country.44

As Eritreans leaving their country are fleeing from a dictatorship and political and ethnical persecutions, they are refugees according to article 1 of the 1951 Refugee Convention and should not be mistreated. This large group of people has been used as a bargaining chip by Eritrean and Ethiopian Governments and have suffered hard conditions on many occasions, particularly when Politicians have exploited ethnical differences. Sometimes they have been expelled from Ethiopia and returned to Eritrea, with the danger they face there, as a way of improving relationships between them. For example, there have been massive arbitrary detentions of returned refugees by the Eritrean Regime, infringing many Rights contained in the Universal Declaration of Human Rights.

Nevertheless, following a new approach focused on getting over the War and supporting a democratic change in the neighbouring country, Ethiopian government declared that Eritrean refugees can now live wherever they want inside the country as long as they can support themselves. One of the immediate consequences of this policy is that around a thousand Eritreans refugees can attend Ethiopian Universities.44 If democracy is established in Eritrea, these educated Eritrean refugees might be able to come back and support the economic and social development of the coastal country, as well as enforce the respect for Human Rights, especially those recognised in the African Charter on Human and People’s Rights.45

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After the War

**Eritrea – Ethiopia Boundary Commission (EEBC) Decision of 13 April 2002**

On the 13th April 2002, two years after the end of the War, the Eritrea – Ethiopia Boundary Commission EEBC published its rulings on boundary delimitation.

This commission had the most important role of all three, as its decision could end the conflict once for all. The members of the entity refused the interpretations made by both Governments, whose delimitations differed around 80 kms, and decided to calculate the borders with other criteria and landmarks, always keeping attached to the 1900, 1902 and 1908 Treaties between Italy and Ethiopia and taking into account applicable International Customary law.\(^5\) The Ruling is generally considered “fair”, as parties gained and lost territory in equal measure as the counterpart.\(^42\) For example, while in the centre of the region it seemed that the Commission favoured Eritrean claims, in the North the territory was split in half. The city of Badme was not explicitly mentioned and appeared to remain in Ethiopia.\(^5\)

The Ethiopian government, understanding that Badme would stay in its country, rapidly accepted the Decisions, and declared that they had won the War and that their interpretation was the one finally accepted by the EEBC. The reaction in Asmara was less effusive, as their claims appeared to have been refused.

Curiously, despite the statements made by Ethiopian Council of ministers, there were experts that affirmed that, in reality, the EEBC had awarded Badme to Eritrea rather than Ethiopia. In order to clarify this point, both countries asked clarifications to the Commission.\(^26\)

While awaiting the answer, Ethiopia decided to move settlers and reinforce their military in the region, making clear that they were not going to accept the loss of Badme and started opposing to the work of the UNMEE and the Commission. The leaders of Ethiopia, Sudan and Yemen meet in Sana’a to publicly oppose to awarding Badme to Eritrea.

The Commission gave Badme to Eritrea and started the second part of its obligation: the physical delimitation of the border that should have consisted in constructing several pillars. The situation soon deteriorated, as Commission’s personnel was threatened by both parties when trying to visit and explain the delimitation of the border. Ethiopia argued that, for them, it was clear that Badme was in their territory, so those members of the Commission were not needed to clarify the border. On the other hand, Eritrea considered that the arbitrators could
be pressured by Ethiopia and denounced its counterpart for not respecting the Agreement. Also, both countries stopped working with the UNMEE and the Peace mission became much complicated.

Accepting that a physical delimitation of the border was impossible under those circumstances, the Commission provided both countries with the exact coordinates of the border and, on 25th August 2008, declared that its mission was over.\footnote{LYONS, Terrence (2006) “The Ethiopian-Eritrean Border Crisis”. Council on Foreign Relations.}

It is important to state that the International Court of Justice, in its decision of the 18th November 1960 regarding the arbitral award of 1906 of the Spanish King Alfonso XIII in the conflict between Honduras and Nicaragua, had declared that countries that had accepted to submit their differences to arbitration could not retract their consent once the decision was made. In this case, Ethiopia refused to apply the arbitral decision, therefore, the country violated International Law and its position cannot be accepted.

**Withdrawal of UN’s forces**

As mentioned before, the Decision of the EEBC was not respected by Ethiopia and soon the situation deteriorated, and the conflict escalated.

Eritrea and Ethiopia, knowing that hostilities could not be resumed as long as the UNMEE was patrolling the region and controlling the Buffer zone, stopped collaborating with the Peace mission and started to obstruct its operations. For example, Ethiopia refused to give shelter to UN’s troops and Eritrea forbade the supply of fuel through its territory.

On November 2005 the Security Council, in resolution 1640, asked Eritrea to allow the normal functioning of the UNMEE and urged Ethiopia to respect the EEBC ruling and give away Badme.\footnote{LYONS, Terrence (2006) “The Ethiopian-Eritrean Border Crisis”. Council on Foreign Relations.} Considering article 41 of the Charter of the United Nations, the Security Council threatened both parties with the implementation of sanctions if they did not comply.

Unfortunately, neither Ethiopia nor Eritrea complied during the following years so the Security Council on the 30th July 2008 decided to (retire) the UN’s forces from the region. In resolution 1827 State members explained that this decision was adopted due to the continuous obstructions by both parties and demanded Eritrea and Ethiopia to respect Algiers Agreements and implement them. This was the first time that parties involved in the conflict successfully expelled a UN’s peace mission.
It is difficult to decide if the UNMEE was a success or not. On the one hand, it was able to maintain peace in the region for eight years, which was its main objective. On the other hand, there are two crucial mistakes that must be considered. The first one is that the Headquarters of the mission was established in Addis Ababa, fact that alienated Eritrea against the UNMEE arguing that it was not neutral. Secondly, the UN troops considered that it was not their mission to support and implement the EEBC ruling. Therefore, there were many times were the Commission’s personnel was left alone without protection in the region and, although the Security Council ordered the UNMEE to work along with the EEBC, the Decision was never applied and the installation of pillars to limit the border was never done.

As soon as the UNMEE left the Horn of Africa, fear of another major conflict between both nations arose.

**The Eritrea-Ethiopia Claims Commission (EECC)**

The EECC, also chaired in the Permanent Court of Arbitration in The Hague also played its role in trying to solve the conflict. The Commission stablished different categories of damages and decided to study them considering International Customary Law.\(^{47}\)

Its mission started on 2001 and ended on the 17\(^{th}\) August 2009, when the Commission had fulfilled all its obligations. The EECC concluded that both parts had committed violations of International Humanitarian Law.\(^{48}\) Those committed by Eritrea were more serious than those of its counterpart, as rapes and unlawfully killing were proven. Ethiopia failed to protect Eritrean POWs and expelled ethnic Eritreans from its territory.\(^{49}\) Also, the EECC considered that Eritrea was liable for starting the conflict, as it violated article 2 of the Charter of the United Nations.\(^{50}\)

The work of this Commission ended in two important consequences. On the one hand, its decision was an important contribution to International Humanitarian Law, as it investigated

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and informed of Human Rights violations by both parts and found Eritrea liable for having attacked Ethiopia.

On the second hand, the EECC and the EEBC were independent from each other and the ruling of the Boundary Commission was published after the EECC had started to develop its functions. Therefore, the Claims Commission had to establish its own interpretation of the border for its ruling. Unfortunately, the borders considered by both commissions differed from each other.\textsuperscript{5} This undermined the job of the EEBC\textsuperscript{50} and Ethiopia refused to comply with the 2002 EEBC ruling because the delimitation established by the Claims Commission was more favourable to its interests.
2018 Ethiopia-Eritrea Peace Agreement

The end of the War in December 2000 and the subsequent refusal by Ethiopia to comply with the EEBC ruling left the conflict unresolved.\textsuperscript{51} For some years, the conflict was frozen and Peace was not signed. Therefore, there were many moments of tension that could easily reactivate the War \textsuperscript{52} and both countries gave support to secessionist and terrorist movements in each other’s States.\textsuperscript{53} Also, as explained before, the UNMEE was forced to leave due to the constant hostile relations with Ethiopia and Eritrea.

It is worth mentioning that sporadic combats go as far as June 2016, when troops from both countries fought over the border. These skirmishes claimed the lives of more than three hundred soldiers.

For nearly two decades, Ethiopia refused to accept giving up Badme and Eritrea was not open to renegotiate the EEBC ruling. Therefore, both countries did not have diplomatic, economical or cultural relations for many years. Also, the fact that the Prime Minister of Ethiopia Mr Meles Zenawi was from the region complicated the existence of negotiations over the issue even more.\textsuperscript{54}

While Mr Isaias Afwerki has been the dictator of Eritrea from the war until today, Ethiopia has slowly become a democracy, although many problems still exist, and new Prime Ministers have come. The successor of Mr Zenawi, Mr Hailemariam Desalegn, refused any rapprochement on its neighbour and democratic riots forced him to resign in 2018.

Fortunately, in April 2018 Me Abiy Ahmed became, by democratic means, Prime Minister of Ethiopia. He was the first non-Tigray leader after the War and considered himself as a democratic reformist. One of the points of his agenda was restoring relations with Eritrea and trying to reach an agreement.

Surprisingly, on 5\textsuperscript{th} June 2018, the EPRDF announced that Ethiopia was accepting the EEBC ruling and was open to implement it. This decision was strongly condemned by the Tigrayan People’s Liberation Front and protests sparked in border cities, especially in Badme. The

Eritrean government shortly after announced that Mi Afewerki would like to meet the Prime Minister of Ethiopia, as the War had to end.

The summit between both leaders took place on the 8th and 9th July 2018 in Asmara. This reunion ended in the Joint Declaration of Peace and Friendship, where the War was declared finished, both countries resumed diplomatic relations and borders were to be opened. Ethiopia fully recognised the EEBC ruling and announced that soon the border will be adapted to the Arbitral decision.

The week after the summit in Asmara, the Eritrean President was invited to Addis Ababa, where both leaders showed their good relationship and new announcements were made. Also, Ethiopia asked the UN to lift any sanctions imposed on its neighbour, as the United Nations had adopted some sanctions against Eritrean dictatorship.54

Although the Agreement was a surprise for most of us, in reality there are two reasons that might show that it could have been predicted. First, different informal and indirect negotiations had taken place some months before through Arab and U.S Diplomacy channels. Also, the UN and the African Union, that substituted the OAU, rapidly responded to the announcement of Ethiopia’s decision to comply with the EEBC ruling and helped to reinforce the Peace process. For example, UN Secretary-General Antonio Guterres visited Addis Ababa hours after the Joint Declaration of both countries and announced that the UN might be adopting a more comprehensive approach towards Eritrean Dictatorship, thus fostering the compliance of the Agreement by Eritrea.55

Secondly, the death of Mr Zenawi, the opening of Ethiopia to democracy and the charisma of Abiy Ahmed reduced the hostility of Ethiopia towards its neighbour and the Conflict started to be related to the past authoritarian governments. These slowly opened possibilities of reaching Peace.55

Conclusions

In conclusion, in 2018 Ethiopia and Eritrea reached an Agreement, mainly thanks to the participation of Mr Abiy Ahmed, which should put an end to the Conflict and open new economic, cultural and political relationships between both countries.

The consequences of this Peace deal are very difficult to establish today, as less than two years have passed from the Agreement, but it undoubtedly is a victory for both countries. From 11th September 2018, when borders were open for the first time in decades, nothing has been the same, as important initiatives towards the reconciliation of both communities have been made and new bonds are being established, especially through bordering people.

The Peace Agreement of 2018 leaves many open questions. The first one is if Peace will lead to a political opening in Eritrea. The end of war has motivated important changes in Eritrea, as the government used to justify its authoritarian policies claiming that they were necessary to defend the country from Ethiopian aggression. Nevertheless, as long as Mr Afewerki is still the chairman of Eritrea and manages to keep its country self-isolated, it will be very difficult for democratic movements to succeed there. Hopefully, if the improvement of the relationship with Ethiopia is maintained for some years and both communities approach each other, it is very possible that democratic ideas might enter in Eritrea and, once Mr Afewerki dies, the country will be prepared to enhance the democratic reforms needed.

The second question is related to the Agreement itself. Mr Abiy Ahmed received the Nobel Peace Prize in 2019 for facilitating the Peace Process and opening a new era in the Horn of Africa. The main point of the Agreement is the respect and implementation of the EEBC ruling, that awards Badme to Eritrea.

Despite this public compromise, in 2020 not only has the border has remained unchanged, except for the considerable reduction of military personnel of both countries, but no real initiatives to give away Badme have been done. Also, opposition in Ethiopia is very strong.

especially among Tigrayans, and there is little chance that the Ruling will be effectively enforced.

It must be mentioned that Eritrean Authorities are not pushing this issue now and it seems that both parties have accepted that, at least at this moment, Badme will still be part of Ethiopia and both countries will take advantage of those benefits given by Peace, like commerce and adopting common international policies.

Therefore, it is very difficult now to predict if this Agreement is the effective end of the Conflict, as one of the most important flashpoints of the War, the city of Badme, has not been solved yet. Also, we do not know how the Tigrayan opposition might affect the Treaty, if Eritrea maintains its decision not to demand the city of Badme or, if it does not, if Ethiopia complies with the Agreement and respect the EEBC Ruling.

Hopefully, War between Ethiopia and Eritrea will never be resumed, both countries will collaborate and democratic movements will succeed in the Horn of Africa.
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